

1 Mario N. Alioto (56433)
2 Lauren C. Russell (241151)
3 TRUMP, ALIOTO, TRUMP & PRESCOTT, LLP
4 2280 Union Street
5 San Francisco, CA 94123
6 Telephone: (415) 563-7200
7 Facsimile : (415) 346-0679
8 Email: malioto@tatp.com
9 laurenrussel@tatp.com

10 Attorneys for Plaintiff Bongo Burger, Inc.

11
12
13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 BONGO BURGER, INC., on behalf of itself and all
17 others similarly situated,

18 Plaintiff.

19 v.

20 TECUMSEH PRODUCTS COMPANY; TECUMSEH
21 COMPRESSOR COMPANY; TECUMSEH DO
22 BRASIL, LTDA.; TECUMSEH DO BRASIL
23 USA,LLC; DANFOSS A/S; DANFOSS, INC.;
24 DANFOSS COMMERCIAL COMPRESSORS, LTD.;
25 DANFOSS SCROLL TECHNOLOGIES, LLC;
AND SCROLL COMPRESSORS LLC,
26
27 Defendants.

28 Case No. 3:09-cv-01836-MMC

ORDER APPROVING
**STIPULATION AND
PROPOSED ORDER FOR
EXTENSION OF TIME TO
RESPOND TO CLASS
ACTION COMPLAINT**

1 **STIPULATION AND [PROPOSED] ORDER FOR EXTENSION OF TIME TO RESPOND**
2 **TO CLASS ACTION COMPLAINT**

3 Currently pending before the United States Judicial Panel on Multidistrict Litigation
4 ("JPML") are motions filed pursuant to 28 U.S.C. § 1407 to consolidate related civil actions for
5 pretrial proceedings (the "Related Actions"). In light of the proceedings before the JPML, and
6 subject to the Court's approval, plaintiff Bongo Burger, Inc. ("Plaintiff") and defendants Tecumseh
7 Products Company, Tecumseh Compressors Company, Danfoss Commercial Compressors, Ltd.,
8 Danfoss, Inc., Danfoss Scroll Technologies, LLC, Danfoss Turbocor Compressors, Inc., Danfoss
9 Compressors, LLC, Whirlpool Corporation, Embraco North America, Inc., ACC USA LLC,
10 Panasonic Corporation of North America, Emerson Climate Technologies, Inc., Copeland
11 Corporation, LLC, CR Compressors, LLC, and Scroll Compressors LLC (collectively "Stipulating
12 Defendants"), by and through their undersigned counsel, stipulate:

13 (1) If the JPML transfers all related civil actions to a single district for coordinated or
14 consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407, the Stipulating Defendants shall, as
15 permitted by Federal Rule 12, answer, move or otherwise plead in response to the complaint in the
16 above captioned action (the "Complaint") within 45 days after: (a) the plaintiffs in the consolidated
17 actions serve a consolidated amended complaint on behalf of the putative class of plaintiffs included
18 in this action, or (b) the plaintiffs in the consolidated actions, filed on behalf of the putative class of
19 plaintiffs included in this action, serve notice that they will not file a consolidated amended
20 complaint.

21 (2) If the JPML denies the motions to transfer all related civil actions to a single district
22 for coordinated or consolidated pretrial proceedings, the Stipulating Defendants shall, as permitted by
23 Federal Rule 12, answer, move or otherwise plead in response to the Complaint within 45 days after
24 service of the JPML ruling.

1 (3) If all plaintiffs in the Related Actions agree to consolidate all related civil actions in a
2 single district and withdraw the pending motions before the JPML, and the Stipulating Defendants, or
3 any of them, have not and do not file their own motions to transfer the Related Actions to a single
4 district for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407, the
5 Stipulating Defendants shall, as permitted by Rule 12, answer, move or otherwise plead in response
6 to the Complaint within 45 days after: (a) the plaintiffs in the consolidated actions file a consolidated
7 amended complaint on behalf of the putative class of plaintiffs included in this action, or (b) the
8 plaintiffs in the consolidated actions, filed on behalf of the putative class of plaintiffs included in this
9 action, serve notice that they will not file a consolidated amended complaint.
10

11 (4) Notwithstanding paragraphs (1), (2), or (3), if any Stipulating Defendant files an
12 answer or other responsive pleading in any of the Related Actions before the date required by this
13 stipulation, such Stipulating Defendant will concurrently file its answer or responsive pleading in this
14 matter.
15

16 (5) The defense counsel identified below agree to accept service on behalf of the
17 Stipulating Defendants they represent of the summons and the complaint in this matter, and
18 Stipulating Defendants shall not contest the sufficiency of process or service of process. Plaintiff and
19 the Stipulating Defendants further stipulate and agree that the entry into this stipulation by the
20 Stipulating Defendants shall not constitute a waiver of any jurisdictional defenses that may be
21 available under Rule 12 of the Federal Rules of Civil Procedure, a waiver of any affirmative defenses
22 under Rule 8 of the Federal Rules of Civil Procedure, or a waiver of any other statutory or common
23 law defenses that may be available to the Stipulating Defendants in this and the other Related
24 Actions. The Stipulating Defendants expressly reserve their rights to raise any such defenses in
25 response to either the current Complaint or any amended complaint that may be filed relating to this
26 action.
27
28

(6) Plaintiff further agrees that this extension is available, without further stipulation with counsel for Plaintiff, to all named defendants who notify Plaintiff in writing of their intention to join this Stipulation.

IT IS SO STIPULATED

Dated: May 21st, 2009

TRUMP, ALIOTO, TRUMP & PRESCOTT, LLP	GLYNN & FINLEY, LLP
By: <u>s/ Mario N. Alioto</u>	By: <u>s/ Clement L. Glynn</u>
Mario N. Alioto (56433) Lauren C. Russell (241151) 2280 Union Street San Francisco, CA 94123 Telephone : (415) 563-7200 Facsimile : (415) 346-0679 Email: malioto@atap.com; laurenrussell@atap.com	Clement L. Glynn (57117) 100 Pringle Avenue, Suite 500 Walnut Creek, CA 94596 Telephone : (925) 210-2801 Facsimile : (925) 945-1975 Email : cglynn@glynnfinley.com
Joseph M. Patane (72202) LAW OFFICES OF JOSEPH M. PATANE 2280 Union Street San Francisco, CA 94123 Telephone : (415) 563-7200 Facsimile : (415) 346-0679 Email: jpatane@atap.com	Leah Brannon CLEARY GOTTLIEB STEEN & HAMILTON LLP 2000 Pennsylvania Avenue, NW Washington, DC 20006
Sherman Kassof (66383) LAW OFFICES OF SHERMAN KASSOF 954 Risa Road, Suite B Lafayette, CA 94549 Telephone : (510) 652-2554 Facsimile : (510) 652-9308 Email: heevay@att.net	<i>Counsel for Defendants Whirlpool Corporation and Embraco North America, Inc.</i>

1 SQUIRE, SANDERS & DEMPSEY LLP 2	DEWEY & LEBOUEF LLP
3 By: <u>s/Julia E. Schwartz</u> 4 Julie E. Schwartz (260624) 1 Maritime Plaza, Suite 300 5 San Francisco, CA 94111 Telephone: (415) 954-0200 Facsimile: (415) 393-9887 Email: jeschwartz@ssd.com	By: <u>s/John E. Schreiber</u> John E. Schreiber (261558) 333 South Grand Avenue Suite 2600 Los Angeles, CA 90071 Telephone: (213) 621-6370 Facsimile. (213) 621-6100 Email: jschreiber@dl.com
7 Edward A. Geltman Suite 500 1201 Pennsylvania Avenue, N.W. 9 Washington, District of Columbia 20004	A. Paul Victor Jeffrey L. Kessler Adam J. Kaiser DEWEY & LEBOUEF LLP 1301 Avenue of the Americas New York, NY 10019-6092
11 <i>Counsel for Defendants Tecumseh Products 12 Company and Tecumseh Compressor Company</i>	<i>Counsel for Defendant Panasonic Corporation of North America</i>
13 GREENBERG TRAURIG LLP 14	REED SMITH LLP
15 By <u>s/Cindy Hamilton</u> Cindy Hamilton (217951) 16 1900 University Avenue, Fifth Floor East Palo Alto, CA 94303 17 Telephone: (650) 328-8500 Facsimile: (650) 328-8508 Email: hamiltonc@gtlaw.com	By <u>s/ David S. Reidy</u> David S. Reidy (225904) Two Embarcadero Center Suite 2000 San Francisco, CA 94111 Telephone: (415) 659-5933 Facsimile: (415) 391-8269 Email: dreidy@reedsmit.com
20 Allan Van Fleet 1000 Louisiana Street, Suite 1700 Houston, TX 77002 22 Telephone: (713) 374-3500 Facsimile: (713) 374-3505	James Andriola REED SMITH LLP 599 Lexington Avenue New York, NY 10022 Telephone: (212) 205-6003 Facsimile: (212) 521-5450 Email: jandriola@reedsmit.com
25 26 <i>Counsel for ACC USA LLC</i>	<i>Counsel for Defendants Danfoss Commercial Compressors, Ltd., Danfoss, Inc., Danfoss Scroll Technologies, LLC, Danfoss Turbocor Compressors, Inc., Danfoss Compressors LLC</i>

HENNELLY & GROSSFELD

By s/ Michael G. King

Michael G. King
4640 Admiralty Way
Suite 850
Marina Del Rey, CA 90292
Telephone: (310) 305-2100
Facsimile: (310) 305-2116

Kenneth J. McIntyre
Dickinson Wright PLLC
500 Woodward Avenue, Suite 4000
Detroit, MI 48226

Counsel for Defendants Emerson Climate Technologies, Inc., Copeland Corporation LLC, CR Compressors, LLC, and Scroll Compressors, LLC

ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Clement L. Glynn, attest that concurrence in the filing of this document has been properly obtained from the above signatories. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 21st day of May, 2009, in Walnut Creek, California.

/s/ Clement L. Glynn

PROPOSED ORDER

PURSUANT TO STIPULATION, , AND GOOD CAUSE THEREFOR APPEARING, IT IS

SO ORDERED:

Date: May 22, 2009

Maxine M. Chesney
Honorable Maxine M. Chesney

Honorable Maxine M. Chesney
United States District Court Judge